

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
)	
PETER and ANN BOSTED)	DOCKET NO. 2016-0224
Complainants,)	
)	
vs.)	
)	
HAWAIIAN ELECTRIC COMPANY, INC., and)	
HAWAII ELECTRIC LIGHT COMPANY, INC.)	
Respondents.)	
_____)	

SECOND PREHEARING ORDER NO. 39114

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
)	
PETER and ANN BOSTED)	DOCKET NO. 2016-0224
Complainants,)	
)	ORDER NO. 39114
vs.)	
)	
HAWAIIAN ELECTRIC COMPANY, INC., and)	
HAWAII ELECTRIC LIGHT COMPANY, INC.)	
Respondents.)	
_____)	

SECOND PREHEARING ORDER

As the designated Hearings Officer for Docket No. 2016-0024, I submit this Second Prehearing Order pursuant to Hawaii Administrative Rules ("HAR") § 16-601-37.

On March 29, 2023, I presided over a virtual (WebEx) prehearing conference, pursuant to HAR § 16-601-36. Attorneys for PETER BOSTED and ANN BOSTED (together "Complainants"); HAWAIIAN ELECTRIC COMPANY, INC. and HAWAII ELECTRIC LIGHT COMPANY, INC. (together "Respondents"); the DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"); and KONA 50-18 LLC, KONA 50-19 LLC, KONA 50-20 LLC, KONA 50-21 LLC, KONA 50-22 LLC, KONA 50-23 LLC, KONA 50-24 LLC, KONA 50-25 LLC, KONA 50-26 LLC, KONA 50-27 LLC, KONA 50-28 LLC, KONA 50-29 LLC, KONA 50-30 LLC, KONA 50-31 LLC,

KONA 50-33 LLC, KONA 50-34 LLC, KONA 50-35 LLC, SOUTH POINT FIT LLC, and HAWAII FIT TWELVE LLC. (together "Intervenors") attended.

I.

SUMMARY OF THE SECOND PREHEARING CONFERENCE

A.

Access to the Hearing Transcript

First I discussed how parties can access the hearing transcript for free. I explained that once the Commission has a copy of the transcript, any party may view that copy in-person during normal business hours at Commission's offices at 465 South King Street, Room 103. I also said that I would notify the parties by notice in the docket when the Commission receives a copy of the transcript. I expect the transcript to be available approximately two weeks after the hearing.

B.

Respondent's Motion for a Protective Order

I asked Hawaiian Electric to provide details on its Motion for a protective order.¹ Hawaiian Electric explained that

¹See "Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc.'s Motion for Protective Order;

it discovered that one exhibit it filed in this docket contained information from another Commission docket that was subject to a protective order in that docket. Hawaiian Electric explained that although it does not expect to need to file any additional confidential information in this docket, it seeks a protective order as a precautionary measure in case it discovers the need to do so. Hawaiian Electric stated that it has already provided the Complainants copies of the confidential material, without the protections of a protective order in this docket, because that material had already been publicly disclosed elsewhere, and is therefore no longer confidential. The Complainants confirmed their receipt of this material.

I told the Parties that I intend to record and live-stream the entire hearing. I encouraged the Parties to accordingly limit the hearing to only non-confidential material. I asked Hawaiian Electric why it requested a two-tier protective order. Hawaiian Electric responded that its request for a two-tier protective order was inadvertent and that it only seeks a standard one-tier protective order. Hawaiian Electric orally amended its Motion accordingly. The Complainants maintained their objection to the Motion.

Docket No. 2016-0224; and Certificate of Service," filed on March 15, 2023 ("Motion").

Based on the Parties' statements at the prehearing conference, and the fact that the deadline to file updated witness and exhibit lists was March 16, 2023,² I don't expect any additional currently or formerly confidential information to be filed in this docket. Although at the prehearing conference I indicated my inclination to grant the Motion, upon reflection, I would strongly prefer to keep the entire record in this matter open to the public, if possible. I am concerned that granting the Motion could encourage the filing of confidential material and arguments over whether that material should be confidential. Such a dispute could delay the evidentiary hearing, which I believe all parties would prefer to avoid. These reasons all weigh against granting the Motion.

The only reason supporting the Motion for a protective order is a precautionary measure. Such a precautionary measure could be valuable in the unexpected event that a party discovers the need to file confidential information. But at this late date, I believe such a discovery is exceedingly unlikely. Weighed against all the reasons to deny the motion, discussed above, simple precaution against the unlikely is not a compelling reason to grant the Motion. Therefore, I deny the

²See Prehearing Order No. 39042, filed on March 7, 2023, at 11.

Motion, without prejudice. If any party unexpectedly discovers the need to produce confidential information in this docket, it may move for a protective order at any time up until the conclusion of the evidentiary hearing.

C.

Post-Hearing Briefs

The Complainants moved to extend the deadline to file post-hearing briefs from two weeks after the transcript is available to four weeks after the transcript is available. The Complainants argued that this extension would allow time to review the transcript and make any necessary motions to correct the transcript. No party objected to this motion. I believe the Complainant's motion is reasonable and will not unduly delay this proceeding. Therefore, I grant the Complainant's motion to amend the procedural schedule as follows.

The deadline to file post-hearing briefs shall be four weeks after the transcript becomes available, as determined by a notice filed in the docket. Any motion to correct the transcript shall be due two weeks after the transcript becomes available. If any party moves to correct the transcript, then the

deadline to file post-hearing briefs shall be two weeks after I issue a ruling on any motion to correct the transcript.

II.

HEARING LINK AND DATE

The hearing shall take place on April 13, 2023, at 9:00 a.m. via WebEx. The hearing will be recorded for the purposes of transcription by a court reporter. That transcript will become a part of the record in this case. The hearing will also be live-streamed and later be posted to the Commission's YouTube channel. Parties or their counsel shall attend the hearing online or via telephone as follows.

Online (via web browser or WebEx mobile device app)
<https://hpuc.my.webex.com/hpuc.my/j.php?MTID=m7c5e786ce90348e816b92932184b55d8>

Meeting Number: **2558 822 0717**

Meeting Password: **0224**

Telephone

Dial-in Number: **1-650-479-3208**

Access code: **2558 822 0717**

Any person may live stream the hearing via YouTube at:
<https://www.youtube.com/watch?v=Wuz5yELAwAE>.

III.

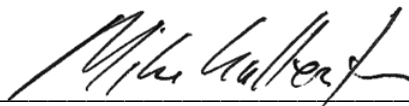
ORDERS

1. The Respondent's Motion for a one-tier protective order is denied, without prejudice.

2. Post-hearing briefs shall be filed no later than four weeks after I notify the Parties that the hearing transcript is available. Any motion to correct the transcript shall be due two weeks after the transcript becomes available. If any party files a motion to correct the transcript, the deadline to file post-hearing briefs shall be two weeks after I rule on any such motion.

DONE at Honolulu, Hawaii APRIL 3, 2023.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Mike S. Wallerstein, Hearings Officer

2016-0224.ljk

CERTIFICATE OF SERVICE

The foregoing Order was served on the date was uploaded to the Public Utilities Commission's Document Management System and served through the Document Management System's electronic Distribution List.

FILED

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PUBLIC UTILITIES
COMMISSION

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